

**REMARKS**

Reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 7-9, 12-14, 20 and 23-35 are pending. Claims 7, 8, 9 and 26 are independent.

**ALLOWED CLAIMS**

Applicants appreciate the Examiner for indicating that claims 7-8, 23-24 and 26-35 are allowable.

**§103 REJECTION – TAKEMURA, SHINSKY**

Claims 9, 12-14, 20 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takemura (U.S. Patent 6,657,658) in view of Shinsky et al. (US Patent 6,285,398). Applicants respectfully traverse.

Independent claim 9 recites, in part “compressing the processed image data and storing the compressed image data in a recording medium when the user indicates satisfaction.” The Examiner admits that Takemura does not teach or suggest this feature. Then the Examiner wrongly relies upon Shinsky to correct for this deficiency of Takemura.

Takemura discloses that image data obtained by the image taking means 101 can be processed according to various setting values selected by the

photographer. If the processed image is acceptable to the user, the finish information along with the **original** image data are stored. In other words, Takemura only discloses storing original data **without** processing. This directly teaches away from the feature of storing the processed image as recited in claim 9.

One requirement to establish *prima facie* case of obviousness is that there must be a suggestion or motivation within the cited reference(s) to modify the reference(s) as proposed in the Office Action. *See M.P.E.P. 2143.01*. The cited reference must be considered in its entirety including disclosures that teach away from the claimed invention. *See M.P.E.P. 2141.02*. If the cited reference(s) teach away from the claimed invention, then the combination is improper and the rejection must fail.

In this instance, since Takemura directly teaches away from the claimed invention, by definition, there is no motivation to combine Takemura with Shinsky and thus, the combination is improper. This alone is sufficient to distinguish claim 9 over Takemura and Shinsky.

Further, the Examiner merely alleges that Shinsky teaches compressing image data. The Examiner does not allege that Shinsky teaches compressing the processed image data. Further, the Examiner does not allege that Shinsky teaches storing the compressed image data into a recording medium. Thus,

even if the Examiner's allegation regarding Shinsky is assumed to be true, the combination of Takemura and Shinsky still cannot teach or suggest the feature of "compressing the processed image data and storing the compressed image data in a recording medium when the user indicates satisfaction" as recited in claim 9.

In addition, in claim 9, the processing of the unprocessed image data is repeatedly carried out in the camera according to the change in the image property setting until the user is satisfied. In the Final Office Action, the Examiner repeats his official notice that such feature is well known.

In Replies to previous Office Actions, Applicants challenged the official notice taken by the Examiner. MPEP clearly requires that when the official notice is challenged, the Examiner must provide references to support the position taken. *See M.P.E.P. 2144.03*. Because the Examiner has failed to provide the necessary support, the rejection cannot stand.

For at least the above stated reasons, claim 9 is distinguishable over the combination of Takemura and Shinsky. Claims 12-14, 20 and 25 depend from claim 9 directly or indirectly. Accordingly, these dependent claims are distinguishable over the same references.

Applicants respectfully request that the rejection of claims 9, 12-14, 20 and 25 based on Takemura and Shinsky be withdrawn.

### CONCLUSION

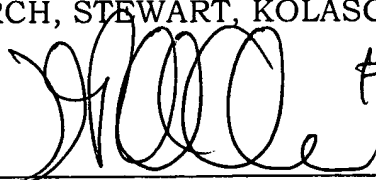
All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Date: September 22, 2006

Respectfully submitted,

BIRCH, STEWART, KOLASCH &, BIRCH, LLP



#40,439

By:

Michael K. Mutter  
Reg. No. 29,680

*HNS*  
MKM/HNS/vd  
0879-0303P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000